

BARAFF, KOERNER, OLENDER & HOCHBERG, P.C.

ATTORNEYS AT LAW

5335 WISCONSIN AVENUE, N.W., SUITE 300
WASHINGTON, D.C. 20015-2003

(202) 686-3200

B. JAY BARAFF
ROBERT L. OLENDER
JAMES A. KOERNER
PHILIP R. HOCHBERG
AARON P. SHAINIS
LEE J. PELTZMAN
MARK J. PALCHICK
JAMES E. MEYERS

RECEIVED

OF COUNSEL
ROBERT BENNETT LUBIC

April 14, 1993

APR 14 1993

FAX: (202) 686-8282

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

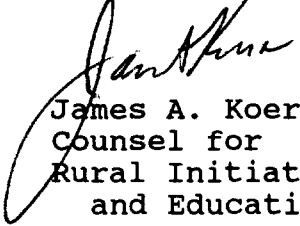
Re: MM Docket No. 93-44

Dear Ms. Searcy:

On March 24, 1993, Rural Initiatives for Shelter and Education, an applicant in the above-referenced proceeding, filed a document which sought to have two qualifying issues specified in the Hearing Designation Order resolved in its favor. Inadvertently, however, the title of the document was specified as "Petition for Leave to Amend" but should have been "Motion for Summary Decision". Transmitted herewith are an original and five copies of that same document with the correct title.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,


James A. Koerner
Counsel for
Rural Initiatives for Shelter
and Education

Enclosures

No. of Copies rec'd 015
List A B C D E

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

APR 14 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-44</u>
)	
RURAL INITIATIVES FOR SHELTER)	File No. BPED-870817MC
AND EDUCATION)	
)	
AMERICAN INDIAN BROADCAST)	File No. BPH-870820MB
GROUP)	
)	
For Construction Permit for)	
New FM Station at Hartford,)	
Michigan)	

To: Arthur I. Steinberg
Administrative Law Judge

MOTION FOR SUMMARY DECISION

Rural Initiatives for Shelter and Education ("Rural") by its attorneys, hereby requests that issues 1 (RF radiation issue) and 2 (air hazard issue) be resolved in Rural's favor. In support hereof, the following is shown:

Issue 1, as specified in the Hearing Designation Order, released March 8, 1993, seeks to determine whether the facility proposed by Rural is likely to have an adverse effect on the quality of the environment, based upon RF radiation standards. Simultaneously herewith, Rural is seeking acceptance of an amendment which demonstrates conclusively that there would be no such adverse effect. Accordingly, the Mass Media Bureau should issue a final Environmental Impact Statement indicating that there will be no adverse effect, so that the issue can be resolved in Rural's favor.

CERTIFICATE OF SERVICE

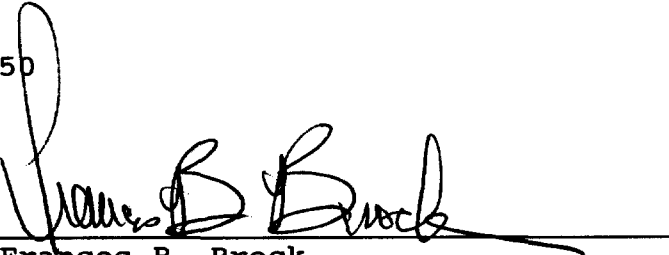
I, Frances B. Brock, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P.C., certify that on this 14th day of April 1993, a copy of the foregoing "Motion for Summary Decision" was sent via first-class, United States Mail, postage prepaid, to each of the following:

Arthur I. Steinberg*
Administrative Law Judge
Federal Communications Commission
2000 L Street, N. W.
Room 228
Washington, D. C. 20554

Charles Dziedzic, Esq.*
Federal Communications Commission
Mass Media Bureau
2025 M Street, N. W.
Washington, D.C. 20554

Federal Aviation Administration
800 Independence Avenue, S. W.
Washington, D. C.

Robert S. Stone, Esq.
McC Campbell & Young
P. O. Box 550
Knoxville, Tennessee 37901-0550



Frances B. Brock

*Delivered by hand

Issue 2 as specified by the Hearing Designation Order seeks to determine whether there is a reasonable possibility that the tower height and location proposed by Rural will constitute a hazard to air navigation. With respect to Rural, paragraph 6 of the Hearing Designation Order notes that the issue was based upon a minor error in the engineering portion of Rural's application. The order further notes that if Rural timely files a correcting amendment, the Judge may dismiss the

In view of the foregoing, it is respectfully requested that the two qualifying issues specified with respect to the Rural application be resolved in Rural's favor.

Respectfully submitted,

**RURAL INITIATIVES FOR SHELTER
AND EDUCATION**

By: _____


James A. Koerner
Its Attorney

**BARAFF, KOERNER, OLENDER
& HOCHBERG, P.C.
5335 Wisconsin Ave., N.W.
Washington, D.C. 20015
(202) 686-3200**

April 14, 1993

JAK/fb\29108\Petition2